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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,909	12/07/2001	Andrew Thomas	1509-252	7180

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EXAMINER

ALBERTALLI, BRIAN LOUIS

ART UNIT PAPER NUMBER

2626

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/005,909	Applicant(s) THOMAS ET AL.	
	Examiner Brian L. Albertalli	Art Unit 2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 21 April 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Attached Detailed Action.

DETAILED ACTION

1. In response to a Notice of Non-Compliant Appeal Brief mailed 31 March 2006, the Applicant submitted an Amended Brief on Appeal and a Reply Brief on 21 April 2006.
2. The Amended Brief on Appeal received 21 April 2006 is in compliance with 37 CFR 41.37(c) and is acceptable for Appeal.
3. However, the Reply Brief received 21 April 2006 is **not** compliant. On 17 January 2006, the original Reply Brief contained an amendment canceling claim 25. In the Notice of Non-Compliant Appeal Brief mailed 31 March 2006, the Examiner indicated that this amendment to claim 25 was not in compliance with 37 CFR 41.41(a) and 41.41(b).

The Reply Brief received 21 April 2006 does not contain an amendment to the claims. However, language in the Reply Brief received 21 April 2006 incorrectly identifies claim 25 as cancelled. Specifically, the final sentence of page 3 of the Reply Brief received 21 April 2006 states, "... claim 25, that is cancelled herewith..."

Therefore, the Reply Brief received 21 April 2006 is **Non-Compliant**. An Amended Reply Brief should be submitted that correctly refers to the current status of the claims on Appeal.

4. The status of the claims is as follows:

This appeal involves claims 1-4, 7-12, 15-18, 20-22, and 24-25.

Claims 1-4, 7-12, 15-18, 20-22, and 24-25 are rejected.

Claims 5, 6, 13, 14, 19, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian L. Albertalli whose telephone number is (571) 272-7616. The examiner can normally be reached on Mon - Fri, 8:00 AM - 5:30 PM, every second Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BLA 7/7/06


DAVID HUDSPETH
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